## Remarks

Reconsideration of the above-captioned application is respectfully requested. Claims 1-10, 30, and 31 have been rejected under 35 U.S.C. §101 allegedly for reciting non-statutory subject matter, because, although admittedly reciting a concrete, tangible, and useful result, these claims recited "no structural limitations". Applicant decidedly does not acquiesce in this rejection. No structure need be cited in a claim to render it statutory, since methods are also patentable (see, e.g., U.S. Patent No. 1, Thomas Jefferson, examiner, to a method for making potash). Nonetheless Applicant will avail itself of the opportunity to amend the claims to specify the art to which they are directed, namely, the computer arts. This rejection will not be further addressed.

Claims 1-9, 11-20, and 22-31 have been rejected under 35 U.S.C. §102 as being anticipated by Reilly et al., and Claims 10 and 21 have been rejected under 35 U.S.C. §103 as being obvious over Reilly et al. in view of Smith. In response, Claim 1 now recites allowing a user to define advertisement attributes, with at least one attribute that can be defined by the user being advertisement type as formerly recited in Claim 5. Also, independent Claim 11 now recites allowing a user of the user computer to determine a type of advertisement to display, whereas independent Claim 22 recites means for allowing a user to define advertising attributes. Claims 1-31 remain pending.

### Rejections Under 35 U.S.C. §102

Claims 1-9, 11-20, and 22-31 have been rejected under 35 U.S.C. §102 as being anticipated by Reilly et al., which teaches a system for allowing a user to define types of new programming in which the user is interested. The Web master associates advertisements with particular news stories so that when a news story

is downloaded to a user pursuant to the user's profile, associated advertisements ***as defined by the Web master, not the user*** are also downloaded. Accordingly, contrary to the allegations in the rejection, nowhere does Reilly et al., either in the relied-upon sections or elsewhere, permit a user to define advertisement type, only to define news story type, with the user being stuck with whatever advertising types have been associat d with the news story by the Web master. Consequently, the user of Reilly et al. cannot define an advertising type attribute as required by Claims 1 and 22, or determine a type of advertisement to display as required by Claim 11, or select an attribute in an advertising window for displaying advertisements as required by Claim 30. This is an important distinction, because, while the user-defined profile in Reilly et al. does indeed result in defined types of advertisements being downloaded, it is not the user who gets to define them. In fact, the present invention has recognized that the user may have a markedly different view of what makes a particular type of advertisement than does the Web master, see, e.g., the discussion of one such example in the present background, page 2. Since news stories are not advertisements, and indeed nowhere has any teaching been made of evidence that the skilled artisan regards the two as the same thing (see MPEP §2111.01, requiring claim terms to be construed as those skilled in the art construe them), the rejection is overcome.

Additionally, certain rejections of dependent claims appear to be incorrect and unsupported by Reilly et al. For example, a user of Reilly et al. cannot create an advertising window as required by Claim 2. The relied-upon window is created for the user and is immutable. Likewise, there is no "advertising channel" in Reilly et al. as recited in Claims 6 and 7, or anything even close, much less are the specific types of advertising channels in Claim 9 taught or suggested. Once again, the user of Reilly et al. can define what kinds of news the user desires but not the kind of advertising - that is done by the Web master.

**Rejections Under 35 U.S.C. §103**

Claims 10 and 21 have been rejected under 35 U.S.C. §103 as being obvious over Reilly et al. in view of Smith, used as a teaching of a device that includes both Internet and broadcast content. The proposed combination, for reasons set forth above, would not arrive at the present claims. Nothing in Reilly et al. suggests allowing the user, as opposed to the Web master, to define advertising types. Indeed, allowing a user to do so would interfere with one of the purposes of Reilly et al. which is the generation of advertising revenue when a user clicks on a Web master-defined ad, col. 5, line 60 to col. 6, line 10, rendering any proposed alteration of Reilly et al. that would permit a user to define advertising types improper under MPEP §2143.01 (citing In re Gordon). Moreover, the proffered suggestion to combine does not present a prior art reason to combine the two specific references, but only a reason why Smith in vacuum provides a nice-to-have feature. Simply observing that a reference provides certain advantages in a vacuum, of course, without explaining why it is particularly more relevant to another reference with which it is proposed to combined, is insufficient to comply with MPEP §2143 *et seq.*, since every reference extols its own advantages and consequently every reference would otherwise be combinable with every other reference.

The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

Respectfully submitted,

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